

**ORDINANCE NO. O2025-043**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUMA, ARIZONA, (1) APPROVING THE SALE AND EXECUTION AND DELIVERY OF PLEDGED REVENUE AND/OR REVENUE REFUNDING OBLIGATIONS, IN ONE OR MORE SERIES, EVIDENCING A PROPORTIONATE INTEREST OF THE OWNERS THEREOF IN A PURCHASE AGREEMENT; (2) APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF NECESSARY AGREEMENTS, INSTRUMENTS AND DOCUMENTS RELATED TO THE SALE AND EXECUTION AND DELIVERY OF SUCH OBLIGATIONS; (3) DELEGATING AUTHORITY TO THE CITY ADMINISTRATOR AND THE DIRECTOR OF FINANCIAL SERVICES OF THE CITY TO DETERMINE CERTAIN MATTERS AND TERMS WITH RESPECT TO THE FOREGOING; (4) DECLARING, FOR PURPOSES OF SECTION 1.150-2 OF THE FEDERAL TREASURY REGULATIONS, OFFICIAL INTENT TO BE REIMBURSED IN CONNECTION WITH CERTAIN CAPITAL EXPENDITURES; AND (5) AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS ORDINANCE**

WHEREAS, the City Council of the City of Yuma, Arizona (the “City”), has determined to (i) finance the costs of street and transportation projects, public safety projects, parks and recreation projects and improvements to City facilities and infrastructure (collectively, the “Project”); and (ii) refinance all or a portion of the payments due pursuant to the Series 2015 Senior Lien Excise Tax Revenue City Purchase Agreement, dated as of October 1, 2015 (the “2015 Purchase Agreement”), to the City of Yuma Municipal Property Corporation (the “Corporation”), with respect to financing the costs of an athletic complex and fleet maintenance complex and refinancing the costs of public safety and transportation projects and improvements to City facilities (collectively with the Project, the “Projects”), by entering into a First Purchase Agreement, to be dated as of the first day of the month of the dated date of the hereinafter described Obligations established as provided herein (the “Purchase Agreement”), with a bank authorized to exercise corporate trust powers in the State of Arizona, appointed as provided hereby, as trustee (the “Trustee”), in its separate capacity as “Seller”; and

WHEREAS, the payments due from the City pursuant to the 2015 Purchase Agreement secure certain payments due with respect to the Corporation’s Senior Lien Excise Tax Revenue and Revenue Refunding Bonds, Series 2015 (the amounts of such bonds to be refunded as provided herein are referred to herein as the “Bonds Being Refunded”); and

WHEREAS, in connection with the Purchase Agreement, the City Council has deemed it necessary and desirable to provide for the sale and execution and delivery of pledged revenue and/or revenue refunding obligations, in one or more series, as provided for by this Ordinance (collectively, the “Obligations”), pursuant to a First Trust Agreement, to be dated as of the first day of the month of the dated date of the Obligations (the “Trust Agreement”), between the Trustee and the City, evidencing proportionate interests of the owners of the Obligations in payments to be made by the City to the Trustee pursuant to the Purchase Agreement; and

WHEREAS, the payments represented by the Obligations will be secured by amounts received under the Purchase Agreement pursuant to which the City will pledge the Excise Tax Revenue Pledged Revenue (as defined in the Trust Agreement); and

WHEREAS, the City Council (i) will receive a proposal from Stifel, Nicolaus & Company, Incorporated (“Stifel”), serving in the capacity of and designated as the underwriter (the “Underwriter”), and not acting as a municipal advisor as defined in the “Registration of Municipal Advisors” rule promulgated by the United States Securities and Exchange Commission (the “MA Rule”), and has determined that the Obligations may be sold through negotiation to the Underwriter on such terms as may hereafter be approved by the hereinafter defined Authorized Representatives; and (ii) may receive a proposal from Stifel, serving in the capacity of and designated as the placement agent (the “Placement Agent”), and not acting as a municipal advisor as defined in the MA Rule, and has determined that the Obligations may be placed by the Placement Agent on such terms as may hereafter be approved by the Authorized Representatives; and

WHEREAS, there have been presented to the City Council at the meetings at which this Ordinance is being introduced and adopted, and there are on file with the City Clerk, the proposed forms of: (1) the Purchase Agreement; (2) the Trust Agreement; (3) a continuing disclosure undertaking of the City, to be dated the date of the Obligations (the “Undertaking”, substantially in the form included as an appendix to the hereinafter described Preliminary Official Statement), pursuant to which the City will provide ongoing disclosure with respect to the Obligations in accordance with Securities and Exchange Commission Rule 15(c)2-12 (the “Rule”), to be executed and delivered if any of the Obligations are sold to the Underwriter; (4) an obligation purchase agreement, to be dated the date of the sale of the Obligations (the “Purchase Contract”), by and between the City and the Underwriter, to be executed and delivered if any of the Obligations are sold to the Underwriter; and (5) a preliminary official statement, to be dated the date of the dissemination thereof (the “Preliminary Official Statement”), relating to the Obligations, which, as to be revised after the sale of the Obligations if any of the Obligations are sold to the Underwriter pursuant to the Purchase Contract, shall constitute the Official Statement, to be dated the date of sale of the Obligations (the “Official Statement”), relating to the Obligations, the Preliminary Official Statement and the Official Statement to be used in connection with the public offering of the Obligations if any of the Obligations are sold to the Underwriter pursuant to the Purchase Contract; and

WHEREAS, the City is authorized and empowered pursuant to law to issue or cause to be issued obligations to finance the costs of various capital facilities owned or to be owned by the City; and

WHEREAS, it is contemplated that certain expenditures made by the City with regard to the Project will be reimbursed from the proceeds of the sale of obligations to be issued in the future by or on behalf of the City (including the Obligations); and

WHEREAS, financing and refinancing, as applicable, the costs of the Projects pursuant to the Purchase Agreement is in furtherance of the purposes of the City and is in the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF YUMA AS FOLLOWS:

SECTION 1:

(a) The execution and delivery of the Obligations by the Trustee is approved.

(b) The City Administrator, the Director of Financial Services of the City or the designees of either of them (collectively, the “Authorized Representatives”) are authorized to determine on behalf of the City: (1) the entity to serve as Trustee; (2) which of the Obligations will be sold to the Underwriter pursuant to the Purchase Contract or placed by the Placement Agent pursuant to the hereinafter defined Placement Agreement; (3) the series name and designation of each series of the Obligations; (4) the aggregate principal amount of the Obligations (but not to exceed \$72,000,000 for the Obligations to be used to finance the costs of the Project); (5) the date the Obligations are to be sold to the Underwriter; (6) the date the Obligations are to be dated; (7) the dates on which interest on the Obligations is to be payable and the interest rates per annum the Obligations are to bear; (8) the dates the Obligations become payable (but not later than a final stated payment date in 2046), the principal amounts to become payable on such dates and the provisions for prepayment thereof in advance of such dates; (9) the provisions for redemption of the Bonds Being Refunded (including the method of redemption and the amounts and dates of redemption thereof); and (10) the terms upon which the Obligations are to be sold to the Underwriter or placed by the Placement Agent (including determinations of price, original issue discount and premium and underwriting/placement compensation); provided, however, that the foregoing determinations shall result in (i) the yield on the Obligations to be used to finance the costs of the Project, as calculated in accordance with Section 148 of the Internal Revenue Code of 1986, as amended, not exceeding five and one-half percent (5.5%), and (ii) a present value savings, net of all costs with respect to the refunding of the Bonds Being Refunded, of at least three percent (3%) of the principal amount of the Bonds Being Refunded.

(c) The Authorized Representatives are further authorized to determine on behalf of the City whether the purchase of an insurance policy securing payment of the Obligations would be advantageous to the City or the terms of the financing represented by the Obligations. The Authorized Representatives are authorized to negotiate with and secure, with proceeds of the Obligations or otherwise, such an insurance policy, from one or more institutions, the claims-paying ability of which are then assigned one of the two highest rating categories by a nationally recognized credit rating agency. The Authorized Representatives are authorized to execute and deliver any instruments or documents necessary in connection with the purchase of any such insurance policy, including those making provision for the repayment of amounts advanced by the institutions issuing such insurance policy.

(d) The forms and other terms of the Obligations, including the provisions for the signatures, authentication, payment, registration, transfer, exchange, redemption and number shall be as set forth in the Trust Agreement and are approved.

SECTION 2: The Obligations are (i) to be sold to the Underwriter pursuant to the terms of the Purchase Contract, and/or (ii) to be placed by the Placement Agent with a purchaser or purchasers (collectively, the “Purchasers”) pursuant to the terms of a Placement Agent Agreement, in standard form, to be dated the date of the placement of the Obligations (the “Placement Agreement”), by and between the City and the Placement Agent, to be executed and delivered if any of the Obligations are placed by the Placement Agent, in each case as such terms are to be determined as provided hereinabove.

SECTION 3: The forms, terms and provisions of the Purchase Agreement, the Trust Agreement, the Purchase Contract and the Undertaking, in substantially the forms of such documents (including the Obligations and other exhibits thereto) presented at the meetings of the City Council at which this Ordinance is being introduced and adopted, and are on file with the City Clerk, are approved, with such final provisions, insertions, deletions and changes as determined as provided hereinabove, particularly with respect to any changes needed based on whether the Obligations are sold to the Underwriter pursuant to the Purchase Contract or placed by the Placement Agent pursuant to the Placement Agreement (including execution and delivery of one or more Purchase Agreements or Trust Agreements, if necessary), and shall be approved by the Authorized Representatives, the execution of each such document being conclusive evidence of such approval. The Authorized Representatives are hereby authorized to enter into, if necessary, an Escrow Trust Agreement, to be dated as of the first day of the month of the dated date of the Obligations (the “Escrow Trust Agreement”), with the Trustee or another bank authorized to exercise corporate trust powers in the State of Arizona, as escrow trustee (the “Escrow Trustee”), in standard form, for the establishment of an escrow to pay principal of and interest on the Bonds Being Refunded and to refund the Bonds Being Refunded. The Authorized Representatives, and the Clerk of the City, where applicable, are authorized and directed, for and on behalf of the City, to execute and deliver, and attest or approve, the Purchase Agreement, the Trust Agreement, the Escrow Trust Agreement, the Purchase Contract, the Placement Agreement and the Undertaking, in each case as necessary and as applicable, and to take all action to carry out and comply with the terms of such documents.

SECTION 4: The distribution of the Preliminary Official Statement by the Underwriter is approved, and, if any of the Obligations are sold to the Underwriter pursuant to the Purchase Contract, the Official Statement in substantially the form of the Preliminary Official Statement, with such changes or revisions therein from the form of the Preliminary Official Statement as may be approved by the Authorized Representatives, is approved, and the Authorized Representatives are authorized, empowered and directed, if necessary, in the name and on behalf of the City, to execute and deliver the same to the Underwriter and to execute and deliver instruments confirming that the Preliminary Official Statement is “deemed final” in accordance with the Rule.

SECTION 5: The Trustee (including in its capacity as Seller) and the Escrow Trustee are requested to take any and all action necessary in connection with the execution and delivery of the Purchase Agreement, the Trust Agreement and the Escrow Trust Agreement and the sale and execution and

delivery of the Obligations and the refunding of the Bonds Being Refunded and are further authorized and directed to take such action as may be reasonable for the administration of the trusts so held by them.

SECTION 6: The covenants and agreements contained in the Purchase Agreement as to the pledge of and the lien on Excise Tax Revenue Pledged Revenue and the restriction on the issuance of further parity obligations secured by Excise Tax Revenue Pledged Revenue are approved and confirmed.

SECTION 7: The Authorized Representatives and other officers of the City, on behalf of the City, are authorized and directed, without further order of the City Council, to do all such acts and things and to execute and deliver all such certificates, proceedings, agreements and other documents as may be necessary or convenient to be executed and delivered on behalf of the City (including entering into any agreements for administrative or procedural requirements requested by the Purchasers if any of the Obligations are placed by the Placement Agent pursuant to the Placement Agreement) to evidence compliance with, or further the purposes of, all the terms and conditions of this Ordinance and the consummation of the transactions contemplated hereby and as may be necessary to carry out the terms and intent of this Ordinance. The Authorized Representatives are authorized to select, and execute and deliver contracts with, appropriate professionals (including special counsel) to provide various professional services with respect to the sale and execution and delivery of the Obligations as well as to provide for such other matters as are necessary in order to accomplish the purposes of this Ordinance.

SECTION 8: All actions of the officers and agents of the City which conform to the purposes and intent of this Ordinance and which further the sale and execution and delivery of the Obligations and the refunding of the Bonds Being Refunded as contemplated by this Ordinance, whether heretofore or hereafter taken, are ratified, confirmed and approved.

SECTION 9: If any section, paragraph, clause or phrase of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or phrase shall not affect any of the remaining provisions of this Ordinance. All orders, resolutions and ordinances or parts thereof inconsistent herewith are hereby waived to the extent only of such inconsistency. This waiver shall not be construed as reviving any order, resolution or ordinance or any part thereof. The City Council hereby declares that this Ordinance would have been adopted with each and every other section, paragraph, subdivision, sentence, clause or phrase hereof and authorized the execution and delivery of the Obligations pursuant hereto irrespective of the fact that any one or more sections, paragraphs, subdivisions, sentences, clauses or phrases of this Ordinance may be held illegal, invalid or unenforceable.

SECTION 10:

(a) The following terms shall have the meanings assigned thereto as follows:

“official intent” means a declaration of intent of the City to reimburse an original expenditure with proceeds of an obligation;

“original expenditure” means an expenditure for a governmental purpose that is

originally paid from a source other than a reimbursement bond; and

“reimbursement bond” means the portion of an issue of obligations allocated to reimburse an original expenditure that was paid before the issue date of such issue.

(b) This Ordinance is official intent relating to reimbursement for the original expenditures for the Project which are capital expenditures (being any cost of a type that is properly chargeable to a capital account (or would be so chargeable with a proper election) under general federal income tax principles) made within sixty (60) days before and any time after the date of this Ordinance. The maximum principal amount of obligations (including the reimbursement bonds for such purposes) to be issued for the Project is expected not to exceed \$72,000,000.

(c) On the date of this Ordinance, the City Council has a reasonable expectation (being that a prudent person in the same circumstances would have based on all the objective facts and circumstances) that it will reimburse such original expenditures with proceeds of such obligations. Official intents have not been declared by the City as a matter of course or in amounts substantially in excess of the amounts expected to be necessary for such projects. Moreover, the City does not have a pattern (other than in extraordinary circumstances) of failure to reimburse actual original expenditures covered by official intents.

(d) With certain exceptions, an allocation in writing that evidences use of proceeds of the reimbursement bonds to reimburse the original expenditures shall be made not later than 18 months after the later of (i) the date that the original expenditure is paid, or (ii) the date the project is placed in service or abandoned, but in no event more than 3 years after the original expenditure is paid.

(e) This Ordinance shall be included as of the date hereof in the publicly available official records of the City, such records being maintained and supervised by the Clerk of the City in the main administrative office of the City, and shall remain available for public inspection on a reasonable basis.

Adopted this \_\_\_\_ day of \_\_\_\_\_ 2025.

APPROVED:

\_\_\_\_\_  
Douglas J. Nicholls  
Mayor

ATTESTED:

APPROVED AS TO FORM:

\_\_\_\_\_  
Lynda L. Bushong  
City Clerk

\_\_\_\_\_  
Richard W. Files  
City Attorney

CERTIFICATION

I hereby certify that the foregoing Ordinance No. O2025-043 was duly passed and adopted by the City Council of the City of Yuma, Arizona, at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_ 2025, and the vote was \_\_\_\_ ayes and \_\_\_\_\_ nays.

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Lynda L. Bushong  
City Clerk